

REMARKS

This amendment is in response to the Office Action mailed April 5th, 2004.

Claim 15 is rejected under 35 U.S.C 112, second paragraph as indefinite for failing to particularly point out and distinctly claim subject matter. In particular, the examiner seems to argue there is not sufficient antecedent basis for "any time zone after the set predefined time zone passes." In addition, to the examiner seems to question the relation of battery charging with the time zone.

In response the claim is amended as shown above. The relation is not to change the battery during the time interval when peak power demands are placed on the commercial power source. The language in the amended claim clearly points out that the battery can ne changed in any time zone excepting a predefined time zone. It is believed that this amendment clears up any inaccuracy that may have been stated in the claim that was originally filed.

Claims 1-7, 9-13, 17, 19, 20 are rejected under 35 U.S.C 102 (b) as being anticipated by Satou et al. (JP06-137650).

In response to this rejection the claims are amended as shown above. In particular apparatus claims are amended by including real-time clock and data mechanism and data storage that stores the peak-shift period and time data base information which are used by the controller to control the switch as set forth in the respected claims. With respect to the method claims the function which are provided by the recited features are recited in the method claims. Neither the recited feature or their functions when stated as method are suggested or disclosed in the Japanese

reference. It is well known (citation omitted) that claims are anticipated only if all the recited elements (Apparatus claim) or process (Method Claim) are disclosed explicitly or inherently in a single reference. As pointed out above the elements which are added to the apparatus claim and processed steps added to the method claim are not disclosed in the Japanese reference. Therefore, the claims are not anticipated.

REJECTION OF CLAIMS 14 AND 16

Claims 14 and 16 are rejected under 35 U.S.C 102 (e) as being anticipated by Lee (US Patent No. 6,509,717). To support this rejection, the examiner relies on the teachings set forth in Lee at Col. 9 lines 12-61.

In response applicant respectfully disagrees with the examiner and argues that Lee does not disclose the switching mechanism recited in the claim or the controller set forth in the claim. In contrast, Lee disclosed the combination of a secondary smart battery 40 and primary smart battery 30 with a switching mechanism that selects either the smart battery selecting unit 50 or the secondary smart battery unit 40. AC/DC adaptor 60 and charging unit 70 provide the charges to the primary smart battery 30 and secondary smart battery 40. (See Lee figures 4 and 7, Col. 3 lines 42-61, Col. 5 lines 38-62 and Col. 7 lines 29-61)

There is no teaching in Lee of a switch between the built in battery of the device and the commercial power source based upon remaining capacity of the battery as recited in claims 14 and 16. As argued above and incorporated herein by reference in order for a reference to anticipate a claim every element and feature of the claim must be disclosed explicitly or inherently with in a single reference. As Argued above Lee does not teach (explicitly or inherently) the feature of applicants claims 14 and 16. Therefore, the claims are not anticipated and there is no need to amend the claims. In addition newly added claims 21 and 22 which depends on claim 14 are patentable

over the art of record for the reasons set forth above.

The examiner characterization of Lee reference seems to be in error and as a result erroneously conclude that Lee anticipate claims 14 and 16.

Rejection of claim 8

Claim 8 is rejected under 35 U.S.C 103 (a) as being unpatentable over Satou in view of applicants admitted prior art. The examiner argues that Satou teaches coupling the battery during a peak daytime range and applicants admitted prior art teaches that power consumption is maximized in the time zone from 1-4pm. Based upon these teachings the examiner concludes that it would be obvious to arrive at claim 8.

In response applicant argue that the amended claim 6 define over Satou. Claim 8 depends on claim 7 which in turns depends on claim 6. Therefore, claim 8 by dependency incorporates the novel process steps set forth in claim 6 and is not suggested in Satou. One of the criteria requirement for a rejection under 35 U.S.C 103 is that the combine reference must teach every element of the claim, else the Examiner had not made out a prima facie case of obviousness. It is applicant's contention that the Examine combination does not suggest or teach the novel process element set forth above and incorporated herein by reference. The consequence is that the examiner failed to make out a prima facie case of obviousness. Therefore claim 8 is not obvious in view of the reference.

Rejection of claim 15

Claim 15 is rejected under 35 U.S.C 103 (a) as being unpatentable over Lee (US Patent No. 6,509,717b2) in view of Dailey (US Patent No. 6,455,954).

It is applicant's contention that the Examiner has failed to make a prima facie case of obviousness. Therefore, for reasons set forth herein claim 15 is patentable over the art of record. Claim 15 depends on claim 14 and as a result of this dependency limitations of claim 14 are now incorporated in claim 15. As argued above and incorporated herein by reference Lee does not teach the limitations set forth in claim 14. In particular, the utility power source in Lee charges the smart battery and never supply power to the device per se. In other words all the power to Lee's device is provided through the smart battery and the utility power source charges the smart battery. In contrast, claim 15 provides power either from the built in battery or the commercial power source. As a consequence, Lee fails to teach elements of Claim 15. Dailey patent does not provide this deficiency found in the Lee 's reference. The consequence after the examiner's combination is that the resulting reference would not teach the limitations set forth in claim 15 (due to its dependency on claim 14). One of the criteria requires to make out a prima facie case of obviousness is that prior art reference must teach or suggest all the claims limitations. Because features in applicants claim 15 are not present in the Examiners combination, the criteria is not met. As the consequence the examiner fail to make out a prima facie case of obviousness. Therefore, claim 15 is patentable over the art of record.

Patentability of Claim 18

Claim 18 is rejected under 35 U.S.C 103 (a) as being unpatentable over Satou (JP-06137650A).

As to this rejection it is applicant's position that the examiner has failed to make a prima facie case of obviousness. As argued above and incorporated herein by reference the modified reference of the examiner (Satou) fails to teach the process steps of "identifying an occurrence of the first time interval by comparing a current time

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and date with a predefined time and date." This limitation is read into claim 18 because of its dependency on 17. Because the examiners modified reference does not teach this element, all the elements of the claim invention is not disclosed in the modified reference. As argued above and incorporated herein by reference the Examiner has not made out a prima facie case of obviousness. Therefore, 18 is patentable over the art of record.

Newly added claims 21 & 22

Newly added claims 21 and 22 are patentable over the art of record for the reasons set forth above.

It is believed that the present amendment answers all the issues raised by the examiner. Reconsideration is hereby requested and an early allowance of all the claims is solicited.

Respectfully submitted,

A handwritten signature in black ink, reading "Joscelyn G. Cockburn". The signature is written in a cursive, flowing style.

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